

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

Hospital Cases

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**DEFENDANTS' MOTION TO DISMISS WITH PREJUDICE CERTAIN HOSPITAL
PLAINTIFFS FOR FAILURE TO SUBMIT FACT SHEETS**

Defendants¹ hereby move to dismiss with prejudice the complaints of hospital plaintiffs that have failed to submit fact sheets and the complaints of hospital plaintiffs that have failed to cure material deficiencies in their fact sheets. Plaintiffs that fail to submit a fact sheet may be dismissed with prejudice under Fed. R. Civ. P. 41 for failure to prosecute and for failure to comply with the Court's orders. Doc. 4985 at 1, 4-6. The Court ordered hospital plaintiffs to submit fact sheets by January 26, 2024, and warned that it would dismiss with prejudice the cases of any hospital plaintiffs that failed to submit a fact sheet. Doc. 5257 at 1.

As stated in the Court's March 5, 2024 Order Regarding Hospital Fact Sheets, the "parties agree that the Hospital Plaintiffs listed below have failed to timely submit a [fact sheet] and their cases may properly be dismissed for failing to adhere to this Court's orders":

	Hospital Plaintiff	Case No.
1.	J. Paul Jones Hospital (AL)	1:18-op-45161
2.	Our Lady of Bellefonte Hospital, Inc. (KY)	1:18-op-45819

¹ Defendants are Walmart, Inc.; Walgreen Co. and Walgreen Eastern Co., Inc.; CVS Pharmacy, Inc.; AmerisourceBergen Corporation (n/k/a Cencora, Inc.) and AmerisourceBergen Drug Corporation; Cardinal Health, Inc.; McKesson Corporation; Johnson & Johnson, Janssen Pharmaceutical, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.; and H. D. Smith, LLC f/k/a H. D. Smith Wholesale Drug Co.

	Hospital Plaintiff	Case No.
3.	Bon Secours Depaul Medical Center, Inc. (VA)	1:18-op-45820
4.	Bon Secours—Virginia Healthsource, Inc. (VA)	1:18-op-45820
5.	Bon Secours Health Systems, Inc. (MD)	1:18-op-45822
6.	Bon Secours Hospital Baltimore, Inc., (MD)	1:18-op-45822
7.	Southern Illinois Healthcare Foundation (IL), d/b/a SIHF Healthcare	1:19-op-45456
8.	Touchette Regional Hospital	1:19-op-45457
9.	Lebanon HMA, LLC	1:19-op-46165
10.	Shelbyville Hospital Company, LLC	1:19-op-46165
11.	Tullahoma HMA, LLC	1:19-op-46165
12.	Hudson Regional Hospital (NJ)	1:20-op-45026
13.	Boa Vida Hospital of Aberdeen, MS, LLC	1:20-op-45127
14.	Clarksdale HMA, LLC	1:20-op-45127
15.	Field Memorial Community Hospital	1:20-op-45127
16.	Anna Hospital Corporation	1:20-op-45266
17.	Blue Island Hospital Company, LLC	1:20-op-45266
18.	Galesburg Hospital Corporation	1:20-op-45266
19.	Granite City Illinois Hospital Company, LLC	1:20-op-45266
20.	Marion Hospital Corporation	1:20-op-45266
21.	National Healthcare of Mt. Vernon, Inc.	1:20-op-45266
22.	Red Bud Illinois Hospital Company, LLC	1:20-op-45266
23.	Waukegan Illinois Hospital Company, LLC	1:20-op-45266

Doc. 5340 at 4-5.

In that same Order, the Court directed hospital plaintiffs that submitted fact sheets with material deficiencies to cure those deficiencies by March 19, 2024, “or their case will be dismissed.” *Id.* at 3-4. Defendants are reviewing the supplemental fact sheets that have been submitted. But the hospital plaintiffs listed below failed to submit supplemental facts sheets by the deadline and should have their cases dismissed with prejudice:

	Hospital Plaintiff	Case No.
1.	Bon Secours St. Francis Xavier Hospital, Inc.	1:18-op-45821
2.	Care Plan Oversight, LLC d/b/a Sage Rehabilitation Hospital (LA)	1:19-op-45614
3.	CHP Properties, LLC d/b/a Capitol House (LA)	1:19-op-45614
4.	Companion Home Services, LLC (LA)	1:19-op-45614
5.	Bellator Healthcare Management, LLC	1:19-op-45614
6.	Carpenter Hospice of Northwest Louisiana, LLC	1:19-op-45614
7.	Grace Hospice of New Orleans, LLC	1:19-op-45614
8.	Home Health Houston Bellaire, LLC	1:19-op-45614

	Hospital Plaintiff	Case No.
9.	Homedica of Louisiana	1:19-op-45614
10.	Lakeshore Home Health Care, LLC	1:19-op-45614
11.	NOLA SJH, LLC	1:19-op-45614
12.	Sage LTAC, LLC	1:19-op-45614
13.	St. Joseph Hospice & Palliative Care - Northshore, LLC	1:19-op-45614
14.	St. Joseph Hospice & Palliative Care of Monroe, LLC	1:19-op-45614
15.	St. Joseph Hospice of Acadiana, LLC	1:19-op-45614
16.	St. Joseph Hospice of Bayou Region, LLC	1:19-op-45614
17.	St. Joseph Hospice of Cenla, LLC	1:19-op-45614
18.	St. Joseph Hospice of Houston, LLC	1:19-op-45614
19.	St. Joseph Hospice of Southern Mississippi	1:19-op-45614
20.	St. Joseph Hospice of Southwest Louisiana, LLC	1:19-op-45614
21.	St. Joseph Hospice of West Mississippi, LLC	1:19-op-45614
22.	St. Joseph Hospice, LLC	1:19-op-45614
23.	Stat Home Health Florida Panhandle, LLC	1:19-op-45614
24.	Stat Home Health Houston, LLC	1:19-op-45614
25.	Stat Home Health of Cenark, LLC	1:19-op-45614
26.	Stat Home Health of Northwest Louisiana, LLC	1:19-op-45614
27.	Stat Home Health of Southeast Louisiana, LLC	1:19-op-45614
28.	Stat Home Health of Southwest Louisiana, LLC	1:19-op-45614
29.	Stat Home Health-North, LLC	1:19-op-45614
30.	Stat Home Health, LLC	1:19-op-45614
31.	Stat-Home Health-West, LLC	1:19-op-45614
32.	St. Joseph Hospice of South Alabama, LLC (LA)	1:19-op-45614
33.	Chatham County Hospital Authority, Georgia	1:19-op-45725

Accordingly, defendants hereby move to dismiss with prejudice under Fed. R. Civ. P. 41 the cases brought by the above-named hospital plaintiffs.

Dated: March 27, 2024

Respectfully submitted,

/s/ Tina M. Tabacchi

Tina M. Tabacchi

Tara A. Fumerton

JONES DAY

111 North Wacker, Suite 4800

Chicago, IL 60606

Phone: (312) 782-3939

tmtabacchi@jonesday.com

tfumerton@jonesday.com

Counsel for Walmart, Inc.

/s/ Kaspar J. Stoffelmayr

Kaspar J. Stoffelmayr
Jean K. Tinkham
Michael A. Nance
BARTLIT BECK LLP
54 West Hubbard Street
Chicago, IL 60654
Phone: (312) 494-4400
kaspar.stoffelmayr@bartlitbeck.com
jean.tinkham@bartlitbeck.com
michael.nance@bartlitbeck.com

*Counsel for Walgreen Co. and Walgreen Eastern
Co., Inc.*

/s/ Eric R. Delinsky

Eric R. Delinsky
Alexandra W. Miller
Paul B. Hynes, Jr.
ZUCKERMAN SPAEDER LLP
1800 M. Street NW, Suite 1000
Washington, DC 20036
Phone: (202) 778-1800
edelinsky@zuckerman.com
smiller@zuckerman.com
phynes@zuckerman.com

Counsel for CVS Pharmacy, Inc.

/s/ Robert A. Nicholas

Robert A. Nicholas
Shannon E. McClure
Joseph J. Mahady
Anne Rollins Bohnet
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Phone: (215) 851-8100
rnicholas@reedsmith.com
smcclure@reedsmith.com
jmahady@reedsmith.com
abohnet@reedsmith.com

*Counsel for AmerisourceBergen Corporation (n/k/a
Cencora, Inc.) and AmerisourceBergen Drug
Corporation*

/s/ Enu A. Mainigi

Enu A. Mainigi
Jennifer G. Wicht
Steven Pyser
Ashley Hardin
WILLIAMS & CONNOLLY LLP
680 Maine Avenue, SW
Washington, DC 20024
Phone: (202) 434-5000
emainigi@wc.com
jwicht@wc.com
spyser@wc.com
ahardin@wc.com

Counsel for Cardinal Health, Inc.

/s/ Geoffrey E. Hobart

Geoffrey E. Hobart
Timothy C. Hester
Christian J. Pistilli
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Phone: (202) 662-5281
ghobart@cov.com
thester@cov.com
cpistilli@cov.com

Counsel for McKesson Corporation

/s/ Charles C. Lifland

Charles C. Lifland
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071
Phone: (213) 430-6000
cliifland@omm.com

*Counsel for Johnson & Johnson; Janssen
Pharmaceutical, Inc.; Ortho-McNeil-Janssen
Pharmaceuticals, Inc. n/k/a Janssen
Pharmaceuticals, Inc.; and Janssen Pharmaceutica,
Inc. n/k/a Janssen Pharmaceuticals, Inc.*

/s/ Brian T. Himmel

Brian T. Himmel
REED SMITH LLP
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 288-4058
bhimmel@reedsmith.com

Louis W. Schack
REED SMITH LLP
Three Logan Square
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Phone: (215) 851-8100
lschack@reedsmith.com

*Counsel for Defendant H. D. Smith, LLC f/k/a H. D.
Smith Wholesale Drug Co.*